

pipeline security plans and critical facility inspections. Section 1449 also requires the Secretary of Homeland Security and the Secretary of Transportation to develop and implement a plan for reviewing pipeline security plans and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September 5, 2002 Circular. In reviewing pipeline operators, the Secretary of Homeland Security and the Secretary of Transportation shall use risk assessment methodologies to prioritize risks and to target inspection and enforcement actions to the highest risk pipeline assets. The section also requires the Secretary of Homeland Security and the Secretary of Transportation to develop and transmit to pipeline operators security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the regulations must incorporate the guidance provided to pipeline operators in the September 5, 2002 Circular and contain additional requirements as necessary based upon the results of inspections performed under this section. The regulations must also include the imposition of civil penalties for non-compliance. Finally, the provision authorizes appropriations of \$2 million for Fiscal Years 2008 and 2009 for a pipeline security inspection and enforcement program.

The Conference substitute adopts the Senate provision, with modifications to the dates for program implementation, review, and issuance of regulations, an extension of the authorization to Fiscal Year 2010, and other changes.

With respect to pipelines, the Conference is aware that a portion of these critical facilities have been inspected, and do not expect re-inspections to be performed needlessly. The Conference expects the Secretary of Homeland Security and the Secretary of Transportation to inspect facilities that have not been inspected for security purposes since September 5, 2002, by either the Department of Transportation or the Department of Homeland Security, and to re-inspect those facilities which the Secretaries deem appropriate.

Section 1558. Pipeline Security and Incident Recovery Plan

There is no comparable House provision.

Section 1448 of the Senate bill requires the Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration (PHMSA), to develop a pipeline security and incident recovery protocols plan. The plan must be developed in accordance with the Memorandum of Understanding Annex executed on August 9, 2006 and take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions. It also requires the Secretary of Homeland Security to transmit to Congress a report containing the plan, along with an estimate of the private and public sector costs to implement any recommendations.

The Conference substitute adopts the Senate provision with modifications, including the requirement that the incident recovery protocols plan be developed in accordance with the National Strategy for Transportation Security and Homeland Security Presidential Directive-7, in addition to the pipeline security annex to the Department of Homeland Security-Department of Transportation Memorandum of Understanding. Language was also added to require that the incident recovery protocol plan address the restoration of essential services supporting pipelines, such as electrical service.

TITLE XVI—AVIATION SECURITY

Section 1601. Airport Checkpoint Screening Fund

Section 403 of the House bill establishes an airport checkpoint screening fund to be funded in Fiscal Year 2008 with \$250 million and expanded until exhausted for the procurement of explosives detection equipment at security checkpoints. These funds would be derived from the current Transportation Security Administration (TSA) security fee.

There is no comparable Senate provision.

The Conference substitute adopts the House provision, as modified. It provides the TSA Administrator with the authority to expend funds in FY 2008 for the purchase, deployment, installation, research, and development of equipment to improve security screening for explosives at commercial airport checkpoints.

The National Commission on Terrorist Attacks Upon the United States (the 9/11 Commission) asserted that while more advanced screening technology is being developed, Congress should provide funding for, and TSA should move as expeditiously as possible to support, the installation of explosives detection trace portals or other applicable technologies at more of the nation's commercial airports. Advanced technologies, such as the use of non-intrusive imaging, have been evaluated by TSA over the last few years and have demonstrated that they can provide significant improvements in threat detection at airport passenger screening checkpoints for both carry-on baggage and the screening of passengers.

The Conference urges TSA to deploy such technologies quickly and broadly to address security shortcomings at passenger screening checkpoints. The Conference believes the best way to provide for the research and development of technologies and techniques that would prevent explosives from being placed onto passenger aircraft is to pilot these technologies at a diverse group of airports. The Conference directs the Secretary of Homeland Security (the Secretary) to give priority for these pilot projects to airports that have demonstrated their expertise as pilot sites and that have been selected by the TSA as "model airports" for the deployment of technology to detect explosives.

Section 1602. Screening of Cargo Carried Aboard Passenger Aircraft

Section 406 of the House bill requires 100 percent of cargo carried on passenger aircraft to be inspected no later than 3 years after the date of enactment. At a minimum, the inspection of such cargo should provide a level of security equivalent to the inspection of passenger checked baggage. The provision requires that the percent of such cargo that should meet these screening standards should be 35 percent by the end of Fiscal Year 2007, 65 percent by the end of Fiscal Year 2008, and 100 percent by the end of Fiscal Year 2009. The Secretary may issue an interim final rule (IFR) but must issue a final rule not later than one year after the IFR. After the system becomes operational, TSA is required to report to Congress, within 1 year, detailing the operations; and within 120 days, report on exemptions permitted under the system. The report on exemptions must also be provided to the Government Accountability Office (GAO) which must provide an assessment of such exemptions to Congress within 120 days of receiving the report.

Section 1462 of the Senate bill requires TSA to develop and implement a system, within 3 years of the date of enactment, to provide for the screening of all cargo being carried on passenger aircraft. The Secretary may issue an interim final rule (IFR) but must issue a final rule not later than one year after the IFR. After the system be-

comes operational, the TSA is required to report to Congress, within 1 year, detailing the operations and, within 180 days, assessing exemptions permitted under the system. The report on exemptions must also be provided to GAO which must provide an assessment of such exemptions to Congress within 120 days of receiving the report.

The Conference substitute adopts a combination of the House and Senate provisions, as modified. It requires minimum standards for the screening of cargo on commercial passenger aircraft that must be commensurate with the level of screening for passenger checked baggage. The Conference substitute includes one benchmark; 50 percent of cargo on commercial passenger aircraft must be screened in 18 months and 100 percent screening achieved in the three years following the date enactment of the legislation. The Conference considers that if TSA were unable to meet the first benchmark, TSA would be required to give classified briefings, on a periodic and to be determined frequency, to the Senate Committee on Commerce, Science and Transportation and to the House Committee on Homeland Security, to explain the status of TSA's ability to maximize the screening of cargo on commercial personal aircraft without causing negative repercussions on the flow of commerce.

The Conference substitute also defines the term "screening" in order to clarify the requirements of the section and the methods of screening the TSA Administrator is permitted to use to screen cargo on commercial aircraft. The Conference notes that the use of the phrase "physical search together with manifest verification" denotes one method of screening, separate and apart from the other methods listed in this subsection, such as X-ray systems, etc. The Conference is also concerned about TSA using data checks of cargo or shippers, including a review of information about the contents of the cargo or verifying the identity of a shipper through a database, such as the Known Shipper database, as a single factor in determining whether cargo poses a threat to transportation security. The Conference substitute, therefore, requires that if such data checks are used, they must be paired with an additional physical or non-intrusive screening method approved by TSA that examines the cargo's contents.

If TSA does not submit a final rule to implement this program within one year after an interim final rule becomes effective, the Department of Homeland Security (the Department or DHS) will be required to submit status reports to the relevant Congressional Committees every 30 days until a final rule is issued. After the system becomes operational, TSA is required to report to Congress, within 1 year, detailing the operations and, within 120 days, report on exemptions permitted under the system. The report on exemptions must also be provided to GAO which must provide an assessment of such exemptions to Congress within 120 days of receiving the report.

The Conference believes that TSA should consider establishing a system whereby aviation ground service providers that perform cargo security screening services for passenger aircraft, are compensated for costs incurred as a result of increased cargo security requirements.

Section 1603. In-Line Baggage Screening

Section 401 of the House bill requires the submission of an overdue cost-sharing study on in-line explosive detection systems (EDS) installation within 30 days of enactment, along with the Secretary's analysis of the study, a list of provisions the Secretary intends to implement, and a plan and schedule for implementation.